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U. S. DISTRICT COURT E.D. N.Y.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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LUIZA G. URIAEV,

Plaintiff,

04 CV 3741 (SLT) (JMA)

-against-

DURACELL INTERNATIONAL, INC.,
SONY CORPORATION OF AMERICA and
SONY ELECTRONICS, INC.,

Defendants,

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TOWNES, District Judge:

Plaintiff Luiza G. Uriacv ("Plaintiff") brings the present diversity action against Defendants Duracell International, Inc., Sony Corporation of America, and Sony Electronics, Inc., ("Defendants") for injuries alleged to have been caused by Defendants' products. On March 24, 2005, Defendant Sony Electronics, Inc. moved to dismiss the complaint for lack of prosecution under Rule 41(b) of the Federal Rules of Civil Procedure. Although I referred this matter to Magistrate Judge Azrack on March 21, 2005, neither Plaintiff nor her counsel consented to a magistrate judge presiding over the action. As a result, Judge Azrack elected to prepare a Report and Recommendation rather than an opinion. This Court adopts Judge Azrack's Report and Recommendation in its entirety.

A district court judge may designate a magistrate to hear and determine certain motions pending before the Court and to submit to the Court proposed findings of fact and a recommendation as to the disposition of the motion. See 28 U.S.C. § 636(b)(1). Within ten days of service of the recommendation, any party may file written objections to the magistrate's report.

See id. Upon de novo review of those portions of the record to which objections were made, the district court judge may affirm or reject the recommendations. See id.

The Court is not required to review the factual or legal conclusions of the magistrate judge as to those portions of the report and recommendation to which no objections are addressed. See Thomas v. Arn, 474 U.S. 140, 150, 106 S. Ct. 466, 88 L. Ed. 2d 435 (1985). In addition, failure to file timely objections may waive the right to appeal this Court's Order. See 28 U.S.C. § 636(b)(1); Small v. Sec'y of Health & Human Servs., 892 F.2d 15, 16 (2d Cir. 1989).

In this case, Judge Azrack recommended that Defendant's motion to dismiss should be granted. Objections to Judge Azrack's recommendations were due by April 28, 2005. No objections to the Report and Recommendation were filed with this Court. Upon review of the recommendation, this Court adopts and affirms the Report and Recommendation of Magistrate Judge Azrack.

SO ORDERED.

U.S.D.J.

Brooklyn, NY
Dated: May 26, 2005